

रजिस्टर्ड नं० पी० 461.



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, 31 अगस्त, 1973/9 भाद्रपद, 1895

GOVERNMENT OF HIMACHAL PRADESH FOOD AND SUPPLIES DEPARTMENT NOTIFICATION

Simla-2, the 23rd August, 1973

No. 11-4/73-Co-op(F&S).—Whereas the Governor of Himachal Pradesh is of the opinion that it is necessary and expedient so to do for maintaining and increasing supplies of cement and for securing its equitable distribution and availability at fair price;

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955, read with Government of India, Ministry of Commerce Order No. SO 1844, dated the 18th June, 1966, and No. SO-2314, dated the 30th July, 1966, and all other powers enabling him in this behalf, and with the prior concurrence of the Central Government the Governor of Himachal Pradesh hereby makes the following Order, namely:—

1. Short title, extent and commencement.—(1) This Order may be called the Himachal Pradesh Cement (Licensing and Control) Order, 1973.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. Definition.—In this Order unless the context otherwise requires,—

(a) 'Cement' means any variety of cement manufactured in India, and includes portland prozzolana cement, oil well cement, water-proof (Hydrophobic) cement, blast furnace slag cement, rapid hardening cemdnt and low heat cement but does not include white and coloured cement (other than grey portland cement);

(b) 'Director' means the Director, Civil Supplies, Himachal Pradesh, and includes Deputy Director, Civil Supplies;

(c) 'District Magistrate' means the District Magistrate of the District and includes the Sub-Divisional Officer (Civil), the District Food and Supplies Controller, District Food and Supplies Officer within the area of their respective jurisdiction.

(d) 'Dealer' means a person engaged in the business of purchase, sale or storage for sale of cement and include a selling agent distributor or stockist of cement, so authorised by manufacture of cement directly selling cement in the State of Himachal Pradesh;

(e) 'Form' means a form appended to this Order;

(f) 'Inspector' means Inspector, Food and Supplies, and includes Sub-Inspector, Food and Supplies;

(g) 'Licensing Authority' means the District Magistrate and any other Officer empowered by the State Government to exercise all or any of the functions of the licensing authority under this Order;

(h) 'Officer for sale' includes a reference to an intimation by a person or a proposal by him for the sale of cement made by the publication of a price list by exposing cement for sale indicating the price, by furnishing a quotation, or otherwise, howsoever.

3. Price control.—No dealer shall sell, or offer for sale cement at price in excess of the price fixed by the District Magistrate of the district under clause 10 of the cement Control Order, 1967.

4. Licensing of dealers.—(1) No person shall attempt to obtain, or store for sale or distribution, or sell or offer for sale cement except under and in accordance with the terms and conditions of the licence issued to him in this behalf by the licensing authority.

(2) Every person who is engaged in the business as a dealer at the commencement of this Order shall apply to the licensing authority for the grant of a licence within fifteen days of the commencement of this Order.

(3) The licensing authority may, after giving the applicant or the dealer concerned an opportunity of being heard and for sufficient reasons to be recorded in writing, refuse to grant or renew licence.

(4) The licensing authority may, after giving the dealer concerned an opportunity of stating his case and for reasons to be recorded in writing, suspend or revoke a licence.

5. Issue of Licence.—(1) Every application for a licence or renewal thereof shall be made to the licensing authority in Form 'A'

(2) An application for renewal of a licence shall be so made as to reach the licensing authority, not less than thirty days before the date on which the licence expires:

Provided that the licensing authority may entertain an application after the expiry of the said period of thirty days if it is satisfied that the applicant was prevented by sufficient cause from filling the application in time.

(3) Every license shall be issued in Form 'B' and shall be subject to the conditions mentioned therein and such other conditions as the licensing authority may prescribe from time to time.

(4) If a licence granted under this Order is defaced, lost or destroyed, the dealer shall forthwith inform the licensing authority, who may, on application by the licensee, issue a duplicate license.

(5) A separate licence shall be obtained by a dealer for each place of business. The licence granted under this Order, unless previously suspended or revoked, shall continue upto 31st March, but shall be renewable annually on an application by a licensee to the District Food and Supplies Officer which shall be made before the expiry of the validity period of licence accompanied by a renewal fee.

(6) Fees chargeable.—The fee specified below shall be chargeable in respect of each licence, namely:—

	Rs.
(a) For grant of license	.. 30.00
(d) For renewal of license	.. 20.00
(c) For issue of duplicate license	.. 10.00

7. Deposit of security.—Every person who applies for license under this Order, shall, before a license is issued to him, deposit with the licensing authority a security of rupees one thousand in such form, as the licensing authority may direct, for the due performance of conditions subject to which the license shall be granted to him.

8. Distribution and sale.—The dealer shall comply with any of the directions that may be given to him from time to time by the licensing authority in writing in this behalf, in respect of storage, sale, purchase, acquisition, distribution or disposal of cement and the manner in which accounts thereof shall be maintained and returns submitted.

9. No dealer shall sell or otherwise dispose of cement except to a person holding a permit in Form 'D' issued by the licensing authority or by such officer or officers as may be designated by the licensing authority, provided however, that the dealer shall be free to sell to a person not holding a permit such a quantity of cement as may remain unsold for thirty days after the dealer has given intimation of the receipt of stock to the officer empowered to issue permits.

10. Every dealer shall every day intimate the licensing authority in writing, the stock of cement received by him on the previous day.

11. No person who has been authorised by the licensing authority to acquire cement from a licensed dealer shall use or dispose of cement so acquired in any manner other than that specified in the permit.

12. Any person who, at the commencement of this order is in possession of cement in any quantity shall forthwith intimate the fact in writing to the licensing authority indicating the quantity held, name and address of the dealer from whom purchase, purpose for which purchased and the date by which it is likely to be consumed for the purpose for it was purchased.

13. No person after the commencement of this order be in possession of any quantity of cement except such quantities as are obtained in accordance with clause 9.

14. Application for issue of permit under sub-clause 9 shall be in Form 'E'.

15. *Dealer to issue receipt or invoice.*—Every dealer shall in respect of every sale of cement, issue a receipt or invoice showing his own name and address, the name and address of the buyer, the number and date of the permit, the date of sale, the quantity of cement sold, the price per unit and the total amount charged, and shall keep the duplicate of the same with him available for inspection.

16. *Display of stocks and prices.*—(1) Every dealer shall exhibit at the entrance or some other prominent part of place of his business, on a special board to be maintained for the purpose, the selling prices of cement.

(2) Every dealer shall also exhibit a statement indicating the stock in hand available for sale at the commencement of each working day.

17. *Dealer to give facilities for inspection.*—Every dealer shall give all facilities at all reasonable times to the licensing authority for inspection of his stocks and accounts on any shop, godown or other places used by him for the storage, sale or purchase of cement.

18. *Contravention of the terms and conditions of license or directions.*—No dealer shall contravene any of the terms or conditions of the license or the directions issued under clause 19 of this Order or any other provision of this Order, and if dealer contravenes any of the said terms, conditions, directions or any provision of this Order then, without prejudice to any other

action that may be taken against the licensee according to law, his license may be cancelled or suspended by Order in writing by the licensing authority:

Provided that no Order shall be made under this clause unless the dealer has been given a reasonable opportunity of stating his case and of being heard against the proposed cancellation or suspension of his license.

19. Maintenance of accounts.—Every dealer shall maintain a true account in Form 'C', of stock of the daily receipts and disposal of cement separately and keep it up-to-date and make it available for inspection at the place of his business.

20. Every dealer shall submit to the licensing authority on or before the seventh day of every month a true return in Form 'F' of cement received, distributed, sold or disposed of during the preceding calendar month.

21. Forfeiture of security deposit.—(1) Without prejudice to the provisions of this order, if the licensing authority is satisfied that the dealer has contravened any of the conditions of the license or the directions and the forfeiture of his security deposit is called for, it may, after giving the dealer a reasonable opportunity of stating his case and against the proposed forfeiture, by an order in writing, forfeit the whole or a part of the security deposited by him and shall forward a copy of the order to the dealer.

(2) The dealer shall, if the amount of his security deposit, at any time, falls short of the amount specified in clause 7, forthwith deposit further security to make up that amount on being required by the licensing authority to do so.

22. Appeal.—(1) Any person aggrieved by an order of the licensing authority refusing to grant or renew a license or cancelling or suspending his license, or forfeiting the security deposit paid by him may within thirty days from the date of the receipt of a copy of the order prefer an appeal in writing before the Director, whose decision shall be final.

23. Power of entry, research, seizure, etc.—(1) The Director or the District Magistrate or any police officer not below the rank of Head Constable or any officer of the Food and Supplies Department, Himachal Pradesh not below the rank of the Sub-Inspector, or any other officer authorised by the Director, may, with such assistance, if any, as he may consider necessary—

(a) require the owner, occupier or any other person in charge of any place, premises vehicles or vessels in which he has reasons to believe that any contravention of the provisions of this order or of the conditions of any license issued thereunder has been, is being or is about to be committed, to produce any books of accounts, or other documents showing transactions relating to such contravention;

- (b) enter, inspect or break open and search any place, premises, vehicle or vessels in which he has reasons to believe that any contravention of the provisions of this order or of any condition of any license issued thereunder has been, is being or is about to be committed;
- (c) seize any document or take or cause to be taken extracts from or copies of any documents showing transactions relating to such contravention;
- (d) search, seize and remove stocks of cement and the animals, vehicles, vessels or other conveyance used in carrying the said cement in contravention of the provisions of this order or of the conditions of the license issued thereunder and thereafter take or authorise the taking of all necessary measures for securing the production of stocks of cement and the animals, vehicles, vessels or other conveyance so seized in a court of law and for their safe custody pending such production;
- (e) seize any books of accounts and documents which in his opinion, would be useful for or relevant to any proceedings under this Order and return such books of accounts and documents to the person from whom they were seized, after copies thereof or extracts therefrom as certified by that person in the manner specified in the Order, have been taken before the expiry of ninety days.

(2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

24. Power to call for information.—Every dealer shall, when so required by general or special directions by the Director or the licensing authority, furnish truthfully and to the best of his knowledge such particulars of information relating to cement in such manner as may be required.

25. Exemption.—The State Government may, by order notified in the Official Gazette, exempt any person or class of persons from the operation of all or any of the provisions of this order, subject to such conditions, if any, as it may deem fit:

Provided further that nothing contained herein shall, apply to the Procurement, transport, storage, distribution of cement—

- (a) for defence services;
- (b) by and on behalf of such public agencies as may be approved by the Himachal Pradesh Government with such conditions as it may impose;
- (c) on Government account;
- (d) Inter-State transport in accordance with the direction of the cement Controller to the Government of India; and
- (e) on behalf or under orders of the Central Government.

FORM A

[See Clause 5(1)]

HIMACHAL PRADESH CEMENT (LICENSING AND CONTROL) ORDER, 1973

Application for grant/renewal of licence

1. Name of the applicant.
2. Residential address of the applicant.
3. Name in which license is required.
4. Names and addresses of the persons having interest in the firm for which license has been applied for.
5. Complete address of the place of business.
6. Full particulars of the godowns where cement is/will be stored.
7. Whether the applicant is a manufacturer of cement, selling agent, distributor, stockist or any other kind of dealer.
8. Type of business being carried on at present.
9. How long has the applicant been trading in cement.
10. Name of the cement company/companies of which he is a selling agent/distributor/stockist.
11. Monthly quota of cement, if any.
12. Quantities of cement handled during the past two years.
13. Quantities of cement in stock at the time of application for license.
14. Income Tax paid in the two years preceding the year of application (to be indicated separately) for each year.
15. Central/Local Sales Tax No.
16. Has the applicant been convicted in the past for any offence relating to cement or any other essential commodity.
17. Other licenses held by the applicant under any order issued under the Essential Commodities Act, 1955.
18. Is the applicant connected in any way with any other firm/licensee dealing in cement, if so, in what capacity?

I declare that the particulars given above are correct to the best of my knowledge and belief and nothing has been concealed.

I have carefully read the provisions of the Himachal Pradesh Cement (Licensing and Control) Order, 1973 and the terms and conditions subject to which license is granted thereunder and I agree to abide by them.

FOR RENEWAL

I hereby apply for renewal of license No.....
issued to me on which is enclosed herewith.

Place:

Date:

Signature of the applicant.

FORM 'B'

[See clause 5(3)]

The Himachal Pradesh Cement (Licensing and Control) Order, 1973. License for purchase, sale, storage for sale, of cement by a manufacturer/selling agent/distributor of cement.

License No.

1. Subject to the provisions of the Himachal Pradesh Cement (Licensing and Control) Order, 1973 and to the terms and conditions as specified below.....is/are hereby authorised to purchase, sell or store cement for sale for a period of one year commencing from.....and ending on.....

2. The licensee shall carry on the business in cement at the following premises only:—

Office	Godown(s)
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Terms and conditions of the License:—

(1) That the licensee shall, except when exempted by the Director, either by a general or a special order, maintain daily accounts for each variety of cement showing correctly:—

- (a) the opening balance on each day;
- (b) the quantities received on each day;
- (c) the source from which received;
- (d) the quantities delivered/issued on each day; and
- (e) the closing balance on each day.

(2) The licensee shall complete his accounts for each day on the day to which they relate or by the beginning of the business on the following day at the latest, unless prevented by reasonable cause, the burden of proof for that shall be upon him.

(3) The Licensee shall not,—

- (i) enter into any transaction involving purchase, sale or storage of cement in a speculative manner prejudicial to the maintenance of supply and easy availability of cement in the market, or
- (ii) withhold from sale stock of cement kept for sale.

(4) The licensee shall every day inform the licensing authority in writing, the stock of cement received by him on the previous day.

(5) The licensee shall, except when specially exempted by the Director in this behalf, issue to every customer cash memo. giving his own name, address, license number and the name and address of the customer, the date of transaction, the quantity sold, the number and date of the permit, the price per metric tonne and total amount charged, and shall keep a duplicate thereof to be available for inspection on demand by the licensing authority or any other officer authorised by it in this behalf.

(6) The licensee shall give all the facilities at all reasonable times for inspection of his stock and account at any of the shops/godowns or other places used by him for the storage, sale or purchase of cement and for the taking of sample of cement for examination.

(7) The licensee shall submit to the licensing authority a true and correct return in Form 'C' of stocks, receipts and deliveries of cement during the month at the close of each month.

(8) The Licensee shall exhibit at the entrance or some other prominent part of the place of his business, on a special board to be maintained for the purpose, the selling prices of cement. The Licensee shall also exhibit a statement indicating the stock in hand available for sale at the commencement of each working day.

Place:

Signature of the Applicant.

Date:

FORM 'C'

(See clause 19)

HIMACHAL PRADESH CEMENT (LICENSING AND CONTROL) ORDER, 1973

Form of the Register for maintenance of stock account

Name and address of the licensee.....

Date	Opening stock	Quantity received	Total	Quantity sold under permit	Closing balance	Remarks
1	2	3	4	5	6	7

Place:

Signature of the licensee.

Date:

FORM 'D'

(See clause 9)

HIMACHAL PRADESH CEMENT (LICENSING AND CONTROL) ORDER, 1973

PERMIT FOR PURCHASE OF CEMENT

1. Name of permit holder.
2. Address of the permit holder.
3. Number of bags of cement to be purchased.
4. Name and address of dealer from whom the cement may be purchased.
5. Purpose for which cement may be used by the permit holder.
6. Date of expiry of validity of the permit.

Place:

Licensing Authority.

Date:

FORM 'E'

(See clause 14)

HIMACHAL PRADESH CEMENT (LICENSING AND CONTROL) ORDER, 1973

APPLICATION FOR CEMENT PERMIT

To

The District Magistrate.....

The District Food and Supplies Officer.....

From

.....
.....
.....

I require.....bags of cement for the following purpose:—

The work will be carried at.....
It is estimated that the work will take.....days to complete by which time the cement will be consumed.

My request for cement is supported by the following documents:—

Place:

Date:

Signature of the Applicant.

*Note.—*The application is likely to be considered favourably if it is accompanied by plan of the building approved by the Municipality or Panchayat and the requirement of cement is certified by an Architect or Engineer.

FORM 'F'

(See clause 20)

Statement showing the stocks of Cement received and sold
during the month of.....

Name and address of the dealer.....

Opening balance	Quantity received during the month	Quantity sold during the month	Closing balance	Remarks
1	2	3	4	5

Place: *Signature of Licensed dealer.*

Date:

M. S. MUKHERJEE,
Secretary.

उप-नियन्त्रक, मुद्रण तथा लेखन-सामग्री, हिमाचल प्रदेश, शिमला-३ द्वारा मुद्रित तथा प्रकाशित ।